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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 DERRICK KIRKWOOD,

7 Petitioner,

8 v.

9 PAT GLEBE,

10 Respondent.

No. C09-5593 RBL/KLS

REPORT AND RECOMMENDATION
Noted For: October 30, 2009

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12 This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28
13 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner Derrick Kirkwood is an inmate at the
14 Stafford Creek Corrections Center in Aberdeen, Washington. Mr. Douglas filed an application
15 to proceed in forma pauperis (Dkt. 1), but paid the \$5.00 filing fee on September 25, 2009.
16 (Receipt # T-6282). Accordingly, the Court should deny the application.

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18 **DISCUSSION**

19 A district court may permit indigent litigants to proceed in forma pauperis upon
20 completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has
21 broad discretion in denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314
22 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).

23 On September 24, 2009, the Clerk received Mr. Kirkwood's application to proceed in
24 forma pauperis. Dkt. 1. On September 25, 2009, Mr. Kirkwood paid the \$5.00 filing fee.
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1 (Receipt No. T-6282). Because he has paid the filing fee, Mr. Kirkwood's application to proceed
2 in forma pauperis is moot.

3 CONCLUSION

4 Because Mr. Kirkwood has paid the filing fee, the undersigned recommends that the
5 Court deny his application to proceed in forma pauperis.

6 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure
7 (Fed. R. Civ. P.), Petitioner shall have ten (10) days from service of this Report and
8 Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file
9 objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474
10 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed set
11 this matter for consideration on **October 30, 2009**, as noted in the caption.
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13 DATED this 9th day of October, 2009.
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17 Karen L. Strombom
18 United States Magistrate Judge
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